

AVAILABILITY OF MODIFIED TEXT

NOTICE IS HEREBY GIVEN that the Board of Optometry has proposed modifications to the text of section(s) in Title 16, Cal. Code Reg. which were the subject of a regulatory hearing on February 7, 2005. A copy of the modified text is enclosed. Any person who wishes to comment on the proposed modifications may do so by submitting written comments on or before August 17, 2005 to the following:

Rex W. Farmer
Board of Optometry
400 R Street, Suite 4090
Sacramento, CA 95814-6200

Dated: August 2, 2005

_Original Signed_____

Taryn Smith, Executive Officer

**CALIFORNIA CODE OF REGULATIONS SECTION 1579 PROPOSED:
AMENDMENT CLARIFYING FINE AMOUNTS**

Edit Key: **Strikethrough Text is Existing Deleted Language.**

 Bold Underline Text is Proposed New Language.

 Italic Text is Modified New Language.

Bold Strikethrough Underline Text is Modified Deleted Language.

Article 12.5. Citations and Fines

1579. Citable Offenses

(a) The executive officer of the board **Board** shall assess fines **based on the classifications** ~~for citable offenses listed in this section, provided however, in no case shall the total fines exceed \$2,500~~ **five thousand dollars (\$5,000)** for each violation **investigation or inspection**. The executive officer shall not impose any duplicate fines for the same violation.

~~B & P refers to the Business and Professions Code~~

~~CCR refers to the California Code of Regulations~~

~~The summary description in this section is for the convenience of reference only, does not include the complete text or all required elements of the listed Statute and regulations and shall be disregarded in determining the meaning and effect of this section.~~

~~(a) The minimum and maximum fine for a violation of the following sections of the Business and Professions Code and California Code of Regulations shall be \$50 and \$500, respectively:~~

| | B&P | CCR | Summary Descriptions | Range of Fine |
|-----|--------------------|----------------|---------------------------------|--------------------------|
| (1) | 3070 | 1505 | Notification Address | 50. - 500. |
| (2) | 3075 | 1506 | Display of Certificate | 50. - 500. |
| (3) | 3076 | | Temporary Practice | 50. - 500. |
| (4) | 3098 | | Misuse of Title or Letters | 50. - 500. |
| (5) | 3100 | | Employment of Cappers/Steerers | 50. - 500. |
| (6) | 3125 | 1513, | False/Assumed Name | 50. - 500. |
| | | 1518 & 1546 | | |
| (7) | 3162 | 1549 | Corporation Report/Renewals | 50. - 500. |
| (8) | 1565 | | Prescription Standards | 50. 500. |
| (9) | 1566 | | Notice to Consumers | 50. - 500. |

(b) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

(1) Class "A" violations are violations which the executive officer has determined involve a person who has engaged in the practice of optometry without a license or valid license, including but not limited to, acting in the capacity of an optometrist or performing or controlling the practice of optometry as defined in Business and Professions Code

section 3041. A class "A" violation is subject to an administrative fine in an amount not less than ~~fifteen-hundred~~ *one thousand five hundred* dollars (\$1,500) and not to exceed ~~twenty-five hundred~~ *two thousand five hundred* dollars (\$2,500) for each and every violation.

(2) Class "B" violations are violations which the executive officer has determined involve either a person who, while engaged in the practice of optometry, has violated a provision of Chapter 7 (Commencing with section 3000) of Division 2 of the Business and Professions Code or a regulation adopted pursuant thereof and which has caused non-physical harm to a person who has committed a class "C" violation and has one or more prior, separate class "C" violations. A class "B" violation is subject to an administrative fine in an amount not less than two hundred and fifty dollars (\$250) and not to exceed ~~twenty-five hundred~~ *two thousand five hundred* dollars (\$2,500) for each and every violation.

(3) Class "C" violations are ~~violation~~ *violations* which the executive office has determined involve a person who, while engaged in the practice of optometry, has ~~committed a~~ *violated* ~~violation~~ and which did not cause harm to another person. A class "C" violation is subject to an administrative fine in an amount no less than fifty dollars (\$50) and not to exceed ~~twenty-five hundred~~ *two thousand five hundred* dollars (\$2,500) for each and every violation.

(c) Notwithstanding the administrative fine amounts specified in subsection (b), a citation may include a fine of up to between *two thousand five hundred one dollars (\$2,501)* and *five thousand dollars (\$5,000)* if one or more of the following circumstances apply:

1. The citation involves a violation that has an immediate relationship to the health and safety of another person.
2. The cited person has a history of two or more prior citations of the same or similar violations.
3. The citation involves multiple violations that demonstrate a willful disregard of the law.
4. The citation involves a violation or violations perpetrated against a senior citizen or disabled person. ~~nB & P refers to the Business and Professions Code.~~
5. The citation involves fraudulent billing submitted to an insurance company or Medi-Cal or Medi-Care programs.

(d) The sanctions authorized under this section shall be separate from, and in addition to, any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9, **148**, and 3025, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY 1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).